## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

LOUIS BERNARDO SCOTT, JR.,	)	
Plaintiff,	)	
V.	) Case	No. CIV-14-812-R
FRED FIGUEROA, et al.,	)	
Defendants.	)	

## REPORT AND RECOMMENDATION

Plaintiff, a prisoner appearing *pro se*, has filed this action under 42 U.S.C. § 1983 alleging various violations of his constitutional rights. United States District Judge David Russell has referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). By an order dated August 25, 2014, the undersigned found that the Plaintiff's Application to Proceed *In Forma Pauperis*, ECF No. 6, was missing financial information, along with a signature of an authorized officer of the penal institution and was missing a certified copy of Plaintiff's institutional account statement for the six-month period immediately preceding this filing. The Order directed Plaintiff to cure these deficiencies on or before September 15, 2014. *See* ECF No. 7.

A review of the court file reveals that the Plaintiff has failed to cure the deficiencies, show good cause for his failure to do so, or request an extension of time to comply with the Court's order. In fact, Plaintiff has not responded to the Court's order in any way. The undersigned finds that Plaintiff's failure to comply with the Court's Order, in light of the Court's right and responsibility to manage its cases, warrants

dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Center*, 492 F.3d 1158, 1161 n.2, 1162 (10<sup>th</sup> Cir. 2007) (*sua sponte* dismissal for failure to comply with Court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing actions without prejudice for failure to comply).

## **RECOMMENDATION**

It is therefore recommended that Plaintiff's Application/Motion to Appear *In Forma Pauperis*, **ECF No. 6**, be **DENIED**. It is further recommended that this action be **DISMISSED WITHOUT PREJUDICE** to re-filing. Plaintiff is advised of his right to file an objection to this Report and Recommendation with the Clerk of Court by **October 6**, **2014**, in accordance with 28 U.S.C. § 636 and Fed. R. Civ. P. 72. Plaintiff is further advised that any failure to make timely objection to this Report and Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10<sup>th</sup> Cir. 2010).

This Report and Recommendation **disposes of all issues** referred to the undersigned Magistrate Judge in the captioned matter.

**ENTERED** on September 19, 2014.

SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE